

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 918 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

KIRANKUMAR KALURAM SHARMA

Versus

COMMISSIONER OF POLICE

Appearance:

MS DUTTA for MS KRISHNA U MISHRA for Petitioner

MR SS PATEL AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 17th December, 1998, made by the Commissioner of Police, Ahmedabad City, under the powers conferred upon him under sub-section (1) of section 3 of

the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a habitual offender and for that matter a 'dangerous person' within the meaning of section 2 (c) of the Act. Ten offences punishable under Chapter XVI of the IPC have been registered against the petitioner during the period between 31st December, 1993 to 25th November, 1998. In each of the said cases, the petitioner is alleged to have committed theft of Scooter/Motor-cycle. The stolen articles have been recovered from his possession. Besides, two individuals have given statements in respect of the anti-social activities of the petitioner and its adverse effect on the public order. They have particularly referred to the incidents of 13th November, 1998 and 17th November, 1998 respectively. In each of the said incidents, the petitioner, on refusal by the witness to submit to the demand made by him is alleged to have beaten the concerned witness in a public place and of using a knife to threaten the witness and to terrorise the innocent people gathered on the spot of incident. Both the incidents are alleged to have created disturbance of public peace and tranquility.

The only contention raised before me is that the activities of the petitioner can be said to be a problem of law and order and can not amount to breach of public order. The offences committed by the petitioner are directed against an individual person and it could not have disturbed the public peace and tranquility. I am afraid, I can not agree with the said contention. It is true that every offence registered against the petitioner individually amounts to a problem of law and order, however, repeated offences of the very nature in the same locality would make the people of the locality apprehensive of safety of their property and create a feeling of insecurity. Such apprehension or feeling of insecurity would necessarily disturb the even tempo of life. Besides, the incidents referred to hereinabove also can not be said to be a mere breach of law and order, but would amount to breach of public order. Hence, in my view the petitioner not only is a dangerous person, but his activities are also prejudicial to the maintenance of public order.

For the aforesaid reasons, the petition is dismissed. Rule is discharged.

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JOSHI*